

DC

MT
Camms
Eileen
Dan
DC

RECEIVED
SEP 12 1983
MONT. P. S. COMMISSION

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of The Determination)
of the Used and Usefulness of) UTILITY DIVISION
Montana Power Company Property,) DOCKET NO. 83.8.56
Expenses And Revenues.)

* * * * *

RESPONSE TO ORDER TO SHOW CAUSE

* * * * *

The Montana Power Co. (MPC) presents the following response to the Montana Public Service Commission (PSC) Order to Show Cause in Docket No. 83.8.56, which Order bears a service date of August 18, 1983. For the reasons cited below, MPC asks that the PSC defer any action on the issues framed in this proceeding until MPC's forthcoming electric rate increase case is filed and before the PSC. MPC submits that consideration of these issues in the forthcoming proceeding will best serve the interests of all concerned in resolving these matters.

I. Summary of Order to Show Cause

As background to the ensuing presentation, MPC sets forth its understanding of the PSC's recent consideration of the question of appropriate ratemaking treatment of revenues from MPC's sales for resale to certain Montana rural electric

cooperatives (REC's), which sales are made under the jurisdiction of the Federal Energy Regulatory Commission (FERC). Related questions include the appropriate treatment by the PSC of the investment, plant, and expenses of MPC used to make these REC sales.

MPC has historically filed its electric rate increase proceedings with the Montana PSC on a basis that included the actual revenue, plant, and expenses related to REC sales. The Montana Consumer Counsel (MCC), while not opposing such inclusion, typically responded with testimony arguing that the REC sales were being subsidized by MPC's retail customers, and that an adjustment assigning a higher level of revenues to such sales was required to avoid potential subsidy.

In MPC's most recent electric rate case before the PSC, Docket No. 82.8.54, the PSC accepted the MCC position regarding an REC revenue adjustment (Order No. 4938a, Finding No. 81). The PSC also noted its belief that MPC should file rate proceedings with FERC on a "more regular basis," and that such filings should include a cost study performed "in a manner consistent with the jurisdictional rate design determinations of the Montana PSC." The purpose of such a cost filing was said to be to "demonstrate that the REA would be treated in a manner entirely consistent with all other classes."

By Motion to Reconsider, MPC argued that the FERC's approved rates for its REC customers were the only lawful rates, and that the PSC was preempted from utilizing a different revenue level in fixing rates for MPC's retail customers. MPC proposed that a rational approach which would adequately take cognizance of the legitimate FERC authority would be to treat the revenues to be achieved under MPC's March, 1983, FERC rate case as a known change in Docket No. 82.8.54. This approach was accepted by the PSC in Order No. 4938b, service date of July 1, 1983. The PSC went on to state its view that MPC should file simultaneous rate cases with the PSC and FERC to eliminate inequities between the ratepayers of each respective jurisdiction.

MCC responded with a motion seeking further reconsideration of the REC revenue issue. This motion was denied on July 19, 1983.

MPC's Revenue Requirements and Legal Department personnel have, since the receipt of the above-referenced orders, pursued compliance with the PSC's concerns regarding simultaneous filings of comparable rate increase proceedings. The PSC and MCC staffs have been continuously apprised of those efforts. The results of informal meetings of the MPC and FERC staffs, to the effect that aspects of a FERC filing on a basis strictly consistent with Montana PSC standards (e.g., historical test year with known and measurable changes) might be deemed deficient, have also been shared.

On August 18, 1983, the PSC issued its Order to Show Cause in the present Docket. Here, MPC was directed to show ". . . that property, expenses, and revenues shown by MCC to be attributable to REC's are used and useful to PSC jurisdictional ratepayers." (Paragraph 10). Further, MPC was asked to explain how, given MPC's preemption arguments, the PSC might take notice of a new FERC filing for purposes of determining an interim revenue requirement in a new PSC rate case (which would be filed at the same time). MPC was also asked to discuss potential differences between the two applications. (Paragraph 11).

MPC was given ten (10) days (subsequently extended until September 12, 1983) in which to make such a showing.

II. Procedural Issues

The Order to Show Cause repeatedly refers to a "showing," as if some evidentiary aspect to this Docket were contemplated. MPC finds no public hearing discussed in the text of the Order, and accordingly, assumes that at this stage the PSC is seeking a discussion of the questions and concerns posed in the Order. That discussion is contained herein. MPC wishes to note, however, that, absent an evidentiary basis, it believes the current rate levels must be continued.

MPC's staff has aggressively pursued the satisfaction of the PSC's concerns in planning for the impending filing

of a FERC rate increase proceeding. Specifically, MPC now plans to file with the FERC at approximately the same time a filing is made with the PSC (on or soon after September 30). The FERC filing will resemble, as closely as FERC rules permit, the PSC filing. This approach, as the PSC staff is aware, may result in the FERC filing being termed "deficient" under FERC standards, but any deficiencies will be remedied as expeditiously as possible.

In view of MPC's efforts to satisfy the PSC concerns for an aggressive filing with FERC in order to ensure equity to all ratepayers, MPC questions the necessity for this Docket. The precise issues raised by the PSC here will be at issue in the new rate case. Any evidentiary phase to this Docket would likely overlap the processing of the new case. MPC believes that consideration of these issues, with an adequate evidentiary basis, should be deferred.

III. Discussion of Allocation Question

In Order to Show Cause

MPC has been ordered to "show why property, revenues, and expenses which are used and useful to PSC jurisdictional ratepayers should include property, revenues, and expenses allocated to the REC's." (Paragraph 10).

At least two approaches to the issue of treatment of the extra-jurisdictional REC transactions exist. The first, that historically followed by the PSC, has been the

determination of a revenue level, rate base, and expenses associated with the REC sales. Determined following a cost allocation analysis of MPC's filings, this approach sought to depict REC revenues as if those revenues were determined under PSC methods, and disagreement focused on the appropriate revenue level.

The second general approach is to simply remove, as one step in ratemaking, the revenues, plant, and expenses associated with providing service to extra-jurisdictional customers. MPC construes Order Paragraph 10 as directing that such an analysis be performed--that its revenues, plant, and expenses be allocated between the PSC and FERC jurisdictions. In response, MPC states that this information is not now available in a form which reflects MPC's 1983 plant investment and expense levels. This information is, however, being prepared, and will be filed with the PSC as part of the body of material in the forthcoming rate application. When filed, the PSC will have the opportunity to study this material, and review the results of MPC's cost analysis. MPC expects that such information could afford the basis for one approach to determination of rates for Montana retail customers. However, other approaches, including the use of revenue levels actually available or expected under FERC tariff, would also be available.

MPC continues to believe that rate levels determined by the FERC, the legally-responsible agency, should be recognized by the state agencies. Concerns for equity among ratepayers can be appropriately addressed through simultaneous filings. The apparent fear that such an approach would leave an opportunity for subsidy by PSC-jurisdictional ratepayers fails to recognize that a subsidy could as easily flow in the other direction.

Acceptance of actual or achievable rate levels, it is submitted, would best protect the utility from the possibility of non-recovery in either jurisdiction, a result which is possible under an allocation methodology.

The merits of the two approaches, as well as the determination of an appropriate cost methodology for implementation of the allocation approach, are problems that must be left to an evidentiary proceeding.

Regarding Paragraph 11 of the Order to Show Cause, MPC was asked to explain how the new FERC filing could be factored into a determination of an interim revenue requirement in the new PSC application. MPC believes that revenues consistent with the FERC tariffs should be the basis for PSC ratemaking. Where those tariffs are known to be changing, it is reasonable to pro form such changes into the PSC determination. This approach, followed by the PSC in Order No. 4938b, would

ordinarily form the basis for interim ratemaking in the new proceeding. ARM, Sec. 38.5.506, states that, in calculating interim rate increases, the PSC will make:

(2)(b) Any adjustments that were made in the most recent Commission general rate order of the utility

Recognizing that the Order No. 4938b approach to REC sales remains in dispute, and may require further review, MPC represents that it would not object to an interim determination in the new proceeding that followed an allocation approach, calculated from the information filed by MPC. Absence of an objection could not be construed, however, as acquiescence in an allocation approach for purposes of the final order.

Further, MPC believes that its new FERC filing could be recognized by the PSC through a final order which accepted the FERC-ordered tariffs and, if not final at the time of the PSC final order, left that single item of the MPC revenue requirement subject to adjustment at such time as the FERC proceeding were concluded.

The Order to Show Cause asks for an itemization of the potential differences between the FERC and PSC filings. The status of preparation of the two filings has not advanced to a point sufficient to allow a detailed discussion. Detail sufficient to allow analysis of these differences will be available shortly after the filings are completed.

IV. Conclusion

Because of the limited information available at this time, MPC asks that consideration of the appropriate method for ensuring equitable treatment of all firm customers (MPC and FERC) be deferred.

DATED: September 9th, 1983.

Respectfully submitted,

THE MONTANA POWER CO.

By Pamela K. Merrell
Pamela K. Merrell
Legal Department
The Montana Power Co.
40 East Broadway
Butte, MT 59701

Dennis R. Lopach
P. O. Box 514
Helena, MT 596240514

Its Attorneys

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Response to Order to Show Cause was this day served by mail upon those parties listed on the Service List in this proceeding.

DATED: September 9th, 1983.

Pamela K. Merrell
Pamela K. Merrell